

FINDING OF NO SIGNIFICANT IMPACT

To Interested Agencies, Officials, Environmental Groups, and Individuals:

The U.S. Environmental Protection Agency (EPA), Region 6, has performed an Environmental Assessment (EA) on the proposed reissuance of National Pollutant Discharge Elimination System (NPDES) general permits authorizing discharges from concentrated animal feeding operations (CAFOs) in Texas, New Mexico and Oklahoma. The EA was prepared pursuant to the requirements of Section 511(c)(1) of the Clean Water Act (CWA) and EPA's environmental review procedures at 40 C.F.R. Part 6, "Procedures for Implementing the Requirements of the Council Of Environmental Quality on the National Environmental Policy Act."

Proposed Action: Reissuance of NPDES general permits authorizing limited discharges of wastewater by CAFOs in Texas (TXG800000, TXG810000), New Mexico (NMG800000, NMG810000) and Oklahoma (OKG800000, OKG810000).

General Permit Information: Section 301(a) of the Clean Water Act (CWA) prohibits the discharge of pollutants from point sources to waters of the United States except in compliance with a permit issued under section 318 (aquaculture projects), 402 (NPDES), or 404 (dredged or fill material) of the CWA. CAFOs are, by statutory definition at CWA §502(14), point sources which may not lawfully discharge except as authorized by NPDES permit. Issuance of NPDES permits to "new sources" is an action subject to the National Environmental Policy Act of 1969 (NEPA) and many CAFOs which support more than 1,000 animal units are new sources. Issuance of NPDES permits to smaller CAFOs or CAFOs constructed before EPA promulgated new source performance standards is an action which is statutorily exempt from the requirements of NEPA.

EPA uses "general permits" to regulate numerous facilities which have similar discharges and which are subject to the same limitations and conditions within a geographic area. See 40 C.F.R. §122.28; *N.R.D.C. v. Costle*, 568 F.2d 1369 (D.C. Cir. 1977). EPA issued general NPDES permits authorizing limited discharges from CAFOs in Texas, Oklahoma, and New Mexico in 1993. Those general permits expired on March 10, 1998, and EPA proposed to reissue them at 63 Fed. Reg. 34874 (June 26, 1998). At 63 Fed. Reg. 48731 (September 11, 1998), the EPA reopened the public comment period for an additional 30 days. EPA has received numerous comments on the proposed permits, some of which may result in changes in the final permits.

CAFOs to be covered by EPA's proposed NPDES general permits include animal feeding and animal waste management operations devoted to livestock production, development, breeding, feed production, and slaughter and packing. Facility components generally include

animal barns, waste water retention structures or lagoons, and areas for the land application of waste water from the lagoons. The proposed permits would authorize discharges from a CAFO only as a result of catastrophic or chronic storm events and only from a retention facility designed, constructed, and operated to contain all the waste/wastewater generated by the CAFO and a 25 year/24 hour storm event. The proposed permits would also require CAFO operators to employ a number of best management practices designed to avoid discharges from CAFO facilities, including land application areas. They would also impose best management practices on third party copermittees treating or disposing of CAFO waste on behalf of CAFO operators in watersheds impaired by nutrients.

EPA has prepared an environmental assessment (EA) on this action. The EA generally evaluates the types of effects construction and operation of CAFOs may have on the environment, including effects on air quality, water quality, soils, wildlife (including threatened and endangered species), public health, and cultural properties. Potential effects common to all new source CAFOs the permits will cover (effects on water quality primarily) will be reduced below the threshold of significance by the terms of the permits. The potential for other significant effects on the quality of the human environment is largely a function of an individual CAFO's location and is thus most appropriately evaluated on a site-specific basis. About 100 of the new source CAFOs eligible for coverage under the permit have been subjected to previous NEPA review in connection with EPA's acceptance of their notices of intent to be covered by the 1993 general permits. The EPA will continue to perform site-specific NEPA review of notices of intent that new source CAFOs submit to obtain coverage under the reissued permits.

Preliminary Determination: Based on the completed EA and the terms of the proposed permits, the Regional Administrator preliminarily determines that reissuance of NPDES general permits for CAFOs in Texas, Oklahoma, and New Mexico is not a major Federal action significantly affecting the quality of the human environment and that preparation of an Environmental Impact Statement (EIS) is not warranted at this time.

Comments on this determination will be accepted during the 30-day review period following the public notice of this Finding of No Significant Impact (FNSI). EPA Region 6 will prepare a responsiveness summary and consider all comments submitted before it renders a final decision on reissuing the general permits. Address all comments and requests for review of the administrative record supporting this determination, to:

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